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RICHARD G. WOOD 1776 YORKTOWN SUITE 550 HOUSTON, TX 77056			BROOKS, MATTHEW L	
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			3629	

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Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/697,636

Applicant(s)

WOOD ET AL.

Examiner

Matthew L. Brooks

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 18 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)          |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### *Claim Objections*

1. **Claims 17, 18, 20, and 21** are objected to because of the following informalities: The Applicant appears to have made a mistake by having the claims depend from Claim 1, for purposes of examination Examiner had the claims depend from Claim 13. Appropriate correction is required.
2. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Misnumbered claim 1,c,(i)-(iv) been renumbered 1,c,(i)-(iii).

### *Claim Rejections - 35 USC § 112 1<sup>st</sup>*

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:  
  
The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.
4. **Claims 1-23** are rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure which is not enabling.

1. Making a determination based upon the assigned risk factors, and

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2. Making a comparison between individual risk factor and environmental risk factor; and further

3. Does not disclose how to assign value to “environmental risk factor”;

both critical or essential to the practice of the invention, are not included in the claim(s) and/or specification and thus not enabled by the disclosure. See *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976).

Applicant has not demonstrated assign a value to the “environmental risk factor and how an “individual risk factor” comparison were to work. The best support Examiner could find in regards to the comparison is page 3 [00010], As to the assigning of an “environmental risk factor” pg 5 [00023] it as a arbitrary designation, and as to the comparison made [00027] but ironically only a value is assigned to “individual risk factor” and in [00027] it is the only factor evaluated “...”OK” to proceed into the secure environment.” NO mention is made of a comparison to environmental risk factor. There are several ways to do a comparison.

Something that does shine light on the area is {00023} wherein Applicant states “...the owner may want to assign a high environment risk factor in order to limit the access to the area only to people with a high clearance code.” For the remainder of this Office action “individual risk factor” comparison to “environmental risk factor” will be interpreted as exactly what it means “clearance” as known and used in the art for nearly a century.” (This applies to 112 2<sup>nd</sup> see below).

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5. **Claim 1, b** is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains new subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. As to changing the risk factor based on the condition of the facility was not disclosed in the original disclosure.

***Claim Rejections - 35 USC § 112 2<sup>nd</sup>***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. **Claims 1-23** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

8. With respect to **claim 1,a**:

- i. "registering an individual with an individual risk factor" this indefinite; why would one need to register if already has an "individual risk factor" (irf).
- ii. There is a lack of antecedent basis for the term "the individual identifier".

9. With respect to **Claim 1,b**:

- i. As to "...the risk factor is changeable..." Applicant fails to state which, "environmental risk factor" (erf) or irf is changeable.

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ii. Also "...base on the condition of the facility." Is indefinite. What about the condition?

10. With respect to **Claim 1,c**:

i. The claim is indefinite and will be interpreted as "persons at the secure point of entry will be notified if person's clearance does not meet level required by facility".

ii. As to Claim 1, c, (iii) it is interpreted as shown below in Section 102

11. With respect to **Claim 1 and 13**:

The steps of making a determination and comparison based upon risk factors will be interpreted by the Examiner as found above in Section 112 1<sup>st</sup>. Essentially that of a person has factors and the building has factors and if a persons factors satisfy the facilities factors said person is allowed access; equivalent to clearance.

### ***Claim Rejections - 35 USC § 102***

12. The following is a quotation of the appropriate paragraphs of 35

U.S.C. 102 that form the basis for the rejections under this section made in this

Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

13. Claims 1-5, 8-17, and 20-23 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Patent Number 6,394,356 (Zagami).

14. With respect to **Claim 1**: Zagami discloses

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a. registering an individual with an individual risk factor on an authentication database by creating a record comprising the individual identifier and an individual risk factor (C4, 10-20 “creating a unique identifier” and C3, 18-30 “access permission designator” based upon individual risk factors);

b. establishing a secure environment by an owner for a facility, wherein a secure environment comprises the secure point of entry, and wherein the facility is assigned an environment risk factor by the owner based upon the level of access the owner wishes to maintain and, wherein the risk factor is changeable based upon the condition of the facility; (See Column 1, 1-25 and Column 6, 8-15 and Column 6, 64-68 wherein “environment risk factor” is simply an arbitrary designation of clearance (Applicant’s specification [00023]) C3, 15-30 and C1, 32-37 and C6, 60-67 limited access);

c. creating a template for issuing alarms or notifications when an individual risk factor does not meet an assigned environmental risk factor (C1, 57-65, metal detector);

i. requesting entry into the secured environment at the secure point of entry by an individual, wherein the individual has an individual identifier (Column 1, 20-24);

ii. sending the individual identifier to an authentication database established by a third party from a point of entry system, wherein the authentication database comprises records for registered individuals (Fig 4 and Column 6, 60-80);

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iii. receiving a response from the authentication database, wherein the response states that the individual has an individual risk factor (Figure 4 Column 6, 60-68);

d. making a determination at the point of entry whether the individual is allowed entry into the secured environment based upon the assigned risk factors of individual and environmental risk factors of the facility (C1, 24-35 “conditional access” and Column 2, 35-40 and Column 3 20-25 and Column 6, 60-68); and

e. adding the determination to the record of the individual in the authentication database (Column 2, 20-36 and Column 6 28-35 “tracking record” and Column 7, 40-50).

15. With respect to **Claim 2**: Zagami discloses

wherein the secure environment is selected from the group consisting of a bank, a computer program, an airport, a train, an airplane, a truck, a military vehicle, a car, a building, offices, an open space, a specified area, a computer, a border of a country, an internal country checkpoint, and combinations thereof (Column 1, 5-15).

16. With respect to **Claim 3**: Zagami discloses

wherein the step of requesting entry into the secured environment at the secure point of entry by an individual is performed by a member of the group consisting of a fingerprint reader, a numerical code, a voice pattern recognition reader, a retinal scanner, a telemetry card reader, a smart card reader, other biometric readers, and combinations thereof (Column 1, 65-68).



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17. With respect to **Claim 4**: Zagami discloses

wherein the steps of requesting entry into the secured environment at the secure point of entry is performed by a secondary party, wherein the secondary party is selected from the group consisting of a secretary, a clerk, an employee, a security guard, a contract worker, and combinations thereof (Column 5, 62-65 "attendant").

18. With respect to **Claim 5**: Zagami discloses

wherein the steps of sending the individual identifier additional information and receiving a response from the authentication database is transmitted by standard voice and data transmission (Column 5, 65-68 and Column 6, 1-8 and Column 6, 15-25).

19. With respect to **Claim 8**: Zagami discloses

further comprising the step of holding the individual for questioning when the individual Risk Factor is high, wherein the questioning is performed by a governmental authority or the owner (Column 7, 60-68 wherein Zagami discusses physical implementation and restriction devices and inherently if Zagami was used at a military building as disclosed the government personnel would hold the individual for questioning).

20. With respect to **Claim 9**: Zagami discloses

wherein the identification information is selected from the group consisting of fingerprint, a numerical code, a voice sample, an eye scan, individual's name, individual's pictures, individual's demographics, and combinations thereof (Column 6, 1-8).

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21. With respect to **Claim 10**: Zagami discloses

wherein the step of asking the non-registered individual a plurality of questions comprises asking questions pertaining to individual's immigration; individual's police records; individual's arrests; individual's occupation; individual's possessions; individual's parole status; individual's dates of prior admissions to the secure environment; individual's dates of prior denials to the secure environment; individual's prior seizures of items prohibited in the secure environment; individual's name, individual's address, individual's nationality, individual's height, individual's weight, individual's social security number, individual's passport number, individual's government identification type, individual's government identification number, individual's credit card number, individual's finger print, individual's digital photo, individual's age, and combination thereof (Column 4, 14-20 and Column 5-50 Zagami must ask questions in order to receive the data mentioned the specific questions asked are simply Non-functional data).

22. With respect to **Claim 11**: Zagami discloses

the step of presenting the individual with a smart card after registering the individual in the authentication database, wherein the smart card comprises the individual identifier (Figure 1 and 4 and Column 6, 15-20).

23. With respect to **Claim 12**: Zagami discloses

wherein the smart card is only usable by the individual with a proper biometric key (This is inherent with Zagami in that the user's picture on the ID is their biometric key, Figures 1-5).

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24. With respect to **Claim 13**: Zagami discloses

- a. establishing the secure environment by an owner, wherein the secure environment comprises the secure point of entry, and wherein the secure point of entry is assigned an environment Risk Factor (See Column 1, 1-25 and Column 6, 8-15 and Column 6, 64-68 wherein "environment risk factor" is simply an arbitrary designation of clearance (Applicant's specification [00023]));
- b. requesting entry into the secured environment at the secure point of entry by an individual, wherein the individual comprises identification information, and wherein the identification information comprises an individual identifier (Column 1, 20-24);
- c. sending the individual identifier to an authentication database established by a third party, wherein the authentication database comprise records for registered individuals (Fig 4 and Column 6, 60-80);
- d. receiving a response from the authentication database, wherein the response states that the individual is a registered individual, and wherein the response comprises the individual Risk Factor assigned to the individual (Figure 4 Column 6, 60-68);
- e. making a comparison between the individual Risk Factor and environment Risk Factor (Column 1, 32-36 and Column 6, 60-68 this is simply looking at the level of clearance given to the individual and the area the individual is trying to enter) ;

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f. making a determination whether the individual is allowed entry into the secured environment based upon the comparison (Column 2, 35-40 and Column 3 20-25 and Column 6, 60-68); and

g. adding the determination to the record of the registered individual in the authentication database (Column 2, 20-36 and Column 6 28-35 "tracking record" and Column 7, 40-50).

25. With respect to **Claim 14**: Zagami discloses

further comprising the step of asking the individual a plurality of questions, wherein the individual answers the plurality of questions creating a profile, wherein the individual Risk Factor is modified based upon the profile (Column 4, 14-20 and Column 5-50 Zagami must ask questions in order to receive the data mentioned and create the database/profile as seen in Figure 4, the specific questions asked are simply Non-functional data).

26. With respect to **Claim 15**: Zagami discloses

the step of holding the individual for questioning when the individual Risk Factor is high, wherein the questioning is performed by a governmental authority or the owner (Column 7, 60-68 wherein Zagami discusses physical implementation and restriction devices and inherently if Zagami was used at a military building as disclosed the government personnel would hold the individual for questioning).

27. With respect to **Claim 16**: Zagami discloses

wherein the step of asking the non-registered individual the plurality of questions comprises asking questions pertaining to individual's immigration;

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individual's police records; individual's arrests; individual's occupation; individual's possessions; individual's parole status; individual's dates of prior admissions to the secure environment; individual's dates of prior denials to the secure environment; individual's prior seizures of items prohibited in the secure environment; individual's name, individual's address, individual's nationality, individual's height, individual's weight, individual's social security number, individual's passport number, individual's government identification type, individual's government identification number, individual's credit card number, individual's finger print, individual's digital photo, individual's age, and combination thereof (Column 4, 14-20 and Column 5-50 Zagami must ask questions in order to receive the data mentioned the specific questions asked are simply Non-functional data).

28. With respect to **Claim 17**: Zagami discloses

wherein the steps of sending the individual identifier additional information and receiving a response from the authentication database is transmitted by standard voice and data transmission (Column 5, 65-68 and Column 6, 1-8 and Column 6, 15-25).

29. With respect to **Claim 20**: Zagami discloses

the step of holding the individual for questioning when the individual Risk Factor is high, wherein the questioning is performed by a governmental authority or the owner (Column 7, 60-68 wherein Zagami discusses physical implementation and restriction devices and inherently if Zagami was used at a

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military building as disclosed the government personnel would hold the individual for questioning).

30. With respect to **Claim 21**: Zagami discloses

wherein the identification information is selected from the group consisting of fingerprint, a numerical code, a voice sample, an eye scan, individual's name, individual's pictures, individual's demographics, and combinations thereof (Column 6, 1-8).

31. With respect to **Claim 22**: Zagami discloses

the step of presenting a smart card by the individual requesting entry into the secured environment at the secure point of entry, wherein the smart card comprises information specific to the individual (Figure 1 and 4 and Column 6, 15-20).

32. With respect to **Claim 23**: Zagami discloses

wherein the smart card is only usable by the individual with a proper biometric key (This is inherent with Zagami in that the user's picture on the ID is their biometric key, Figures 1-5).

### ***Claim Rejections - 35 USC § 102***

33. Claims 1-23 are rejected under 35 U.S.C. 102(b) as being clearly taught by Patent No.: 6,335,688 (Sweatte).

34. With respect to **Claim 1**: Sweatte discloses

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a. registering an individual with an individual risk factor on an authentication database by creating a record comprising the individual identifier and an individual risk factor (C2, 20-25 and shows authentication database thus must have an individual identifier and individual risk factors associated with individual);

b. establishing a secure environment by an owner for a facility, wherein a secure environment comprises the secure point of entry, and wherein the facility is assigned an environment risk factor by the owner based upon the level of access the owner wishes to maintain and, wherein the risk factor is changeable based upon the condition of the facility; (C4, 12-20 and C8, 1-10 wherein "environment risk factor" is simply an arbitrary designation of clearance (Applicant's specification [00023]));

c. creating a template for issuing alarms or notifications when an individual risk factor does not meet an assigned environmental risk factor (C3, 1-5 and C3, 42-60 and C2, 25-27 and C2, 35-42);

i. requesting entry into the secured environment at the secure point of entry by an individual, wherein the individual has an individual identifier (Column 2, 10-30);

ii. sending the individual identifier to an authentication database established by a third party from a point of entry system, wherein the authentication database comprises records for registered individuals (C2, 20-30);

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- iii. receiving a response from the authentication database, wherein the response states that the individual has an individual risk factor (C2, 22-40);
- d. making a determination at the point of entry whether the individual is allowed entry into the secured environment based upon the assigned risk factors of individual and environmental risk factors of the facility (Column 3, 42-55 and C6, 55-67); and
- e. adding the determination to the record of the individual in the authentication database (Column 7, 1-7).

35. With respect to **Claim 2**: Sweatte discloses

wherein the secure environment is selected from the group consisting of a bank, a computer program, an airport, a train, an airplane, a truck, a military vehicle, a car, a building, offices, an open space, a specified area, a computer, a border of a country, an internal country checkpoint, and combinations thereof (Column 8, 1-10).

36. With respect to **Claim 3**: Sweatte discloses

wherein the step of requesting entry into the secured environment at the secure point of entry by an individual is performed by a member of the group consisting of a fingerprint reader, a numerical code, a voice pattern recognition reader, a retinal scanner, a telemetry card reader, a smart card reader, other biometric readers, and combinations thereof (Column 2, 10-25).

37. With respect to **Claim 4**: Sweatte discloses



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wherein the steps of requesting entry into the secured environment at the secure point of entry is performed by a secondary party, wherein the secondary party is selected from the group consisting of a secretary, a clerk, an employee, a security guard, a contract worker, and combinations thereof (Column 2, 10-15).

38. With respect to **Claim 5**: Sweatte discloses

wherein the steps of sending the individual identifier additional information and receiving a response from the authentication database is transmitted by standard voice and data transmission (Column 2, 10-30).

39. With respect to **Claims 6 and 7**: Sweatte discloses

As to the authentication database (C2, 20-25)

40. With respect to **Claim 8**: Sweatte discloses

further comprising the step of holding the individual for questioning when the individual Risk Factor is high, wherein the questioning is performed by a governmental authority or the owner (C2, 35-42 and C3, 40-57).

41. With respect to **Claim 9**: Sweatte discloses

wherein the identification information is selected from the group consisting of fingerprint, a numerical code, a voice sample, an eye scan, individual's name, individual's pictures, individual's demographics, and combinations thereof (Column 2, 10-30).

42. With respect to **Claim 10**: Sweatte discloses

wherein the step of asking the non-registered individual a plurality of questions comprises asking questions pertaining to individual's immigration; individual's police records; individual's arrests; individual's occupation;

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individual's possessions; individual's parole status; individual's dates of prior admissions to the secure environment; individual's dates of prior denials to the secure environment; individual's prior seizures of items prohibited in the secure environment; individual's name, individual's address, individual's nationality, individual's height, individual's weight, individual's social security number, individual's passport number, individual's government identification type, individual's government identification number, individual's credit card number, individual's finger print, individual's digital photo, individual's age, and combination thereof (Column 1, 65-67 and C210-30).

43. With respect to **Claim 11**: Sweatte discloses

the step of presenting the individual with a smart card after registering the individual in the authentication database, wherein the smart card comprises the individual identifier (C2, 25-30).

44. With respect to **Claim 12**: Sweatte discloses

wherein the smart card is only usable by the individual with a proper biometric key (C2, 25-30)

45. With respect to **Claim 13**: Sweatte discloses

a. establishing the secure environment by an owner, wherein the secure environment comprises the secure point of entry, and wherein the secure point of entry is assigned an environment Risk Factor (C4, 10-20 and C6, 55-67);

b. requesting entry into the secured environment at the secure point of entry by an individual, wherein the individual comprises identification information,

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and wherein the identification information comprises an individual identifier (Column 2, 10-30);

c. sending the individual identifier to an authentication database established by a third party, wherein the authentication database comprise records for registered individuals (C2, 10-30);

d. receiving a response from the authentication database, wherein the response states that the individual is a registered individual, and wherein the response comprises the individual Risk Factor assigned to the individual (C2, 24-30);

e. making a comparison between the individual Risk Factor and environment Risk Factor (Column 3, 40-57) ;

f. making a determination whether the individual is allowed entry into the secured environment based upon the comparison (Column 3, 40-57 and C6, 55-67); and

g. adding the determination to the record of the registered individual in the authentication database (Column 7, 1-7).

46. With respect to **Claim 14**: Sweatte discloses

further comprising the step of asking the individual a plurality of questions, wherein the individual answers the plurality of questions creating a profile, wherein the individual Risk Factor is modified based upon the profile (C1, 65-67 and C2, 10-30 and C3, 14-18 and C4, 35-42).

47. With respect to **Claim 15**: Sweatte discloses

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the step of holding the individual for questioning when the individual Risk Factor is high, wherein the questioning is performed by a governmental authority or the owner (Column 2, 35-45 and C3, 42-57).

48. With respect to **Claim 16**: Sweatte discloses

wherein the step of asking the non-registered individual the plurality of questions comprises asking questions pertaining to individual's immigration; individual's police records; individual's arrests; individual's occupation; individual's possessions; individual's parole status; individual's dates of prior admissions to the secure environment; individual's dates of prior denials to the secure environment; individual's prior seizures of items prohibited in the secure environment; individual's name, individual's address, individual's nationality, individual's height, individual's weight, individual's social security number, individual's passport number, individual's government identification type, individual's government identification number, individual's credit card number, individual's finger print, individual's digital photo, individual's age, and combination thereof (C2 10-30 and C4, 35-42).

49. With respect to **Claim 17**: Sweatte discloses

wherein the steps of sending the individual identifier additional information and receiving a response from the authentication database is transmitted by standard voice and data transmission (Column 4, 50-57).

50. With respect to **Claims 18 and 19**: Sweatte discloses

As to the authentication database (C2, 20-25)

51. With respect to **Claim 20**: Sweatte discloses

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the step of holding the individual for questioning when the individual Risk Factor is high, wherein the questioning is performed by a governmental authority or the owner (C2, 35-42 and C3, 40-57).

52. With respect to **Claim 21**: Sweatte discloses

wherein the identification information is selected from the group consisting of fingerprint, a numerical code, a voice sample, an eye scan, individual's name, individual's pictures, individual's demographics, and combinations thereof (Column 2, 10-30).

53. With respect to **Claim 22**: Sweatte discloses

the step of presenting a smart card by the individual requesting entry into the secured environment at the secure point of entry, wherein the smart card comprises information specific to the individual (C2, 25-30).

54. With respect to **Claim 23**: Sweatte discloses

wherein the smart card is only usable by the individual with a proper biometric key (C2, 25-30).

### ***Claim Rejections - 35 USC § 103***

55. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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56. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

57. **Claims 6, 7, 18, and 19** are rejected under 35 U.S.C. 103(a) as being unpatentable over Zagami in view of "ChoicePoint in talks about airport card"; Credeur, Mary Jane; Atlanta Business Chronicle v25n17 pA1 (attached) Herein after referred to as "ChoicePoint".

With respect to Claims 6, 7, 18 and 19

Zagami discloses a method for providing access and tracking the access of both

registered and non-registered individuals at a secure point of entry to a secure environment. Zagami checks a database to determine what type of clearance is authorized. Furthermore, Zagami indicates that this database may be external (Column 7, 50-60).

Zagami differs from the claimed invention in that it does not link to another database which is from the selection of Interpol database, United States Border Patrol database, US police database, US FBI database, US CIA database, state agency fingerprint databases, and other state authentication database, immigration databases, and combinations thereof.

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ChoicePoint teaches that in view of the September 11<sup>th</sup> terrorist attacks we needed a system that could make the subjective determination of whether a person is prone to be a risk and can do damage and the best way to do this is to run a background check which is cross referenced against files compiled by the FBI, CIA or Immigration Service. Examiner notes at this point to add any more agencies would be obvious in the interest of security (page 2).

ChoicePoint is evidence that ordinary workers in the art of security would recognize the benefits of checking on a secondary database from the aforementioned group before allowing an individual access to an area where screening occurs using biometric data with a smart card.

Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Zagami to check with a secondary database from one of the following: Interpol database, United States Border Patrol database, US police database, US FBI database, US CIA database, state agency fingerprint databases, and other state authentication database, immigration databases, and combinations thereof and then to send this information to the first database as shown in ChoicePoint.

### ***Response to Arguments***

58. Applicant's arguments filed 10/7/05 have been fully considered but they are not persuasive. Examiner was unable to find an argument.

59. Applicant's arguments with respect to claims 1-23 have been considered but are also moot in view of the new ground(s) of rejection.

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60. Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

***Conclusion***

61. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- A. 6,738,901 Boyles, which shows the Applicant's invention but implemented for internet and computer access.
- B. "Preventing Terrorism in the drug wars"; Oct. 1, 2000; Carol Carey (attached)
- C. "High-tech security systems team up with environmental design at military site"; Access Control and Security Systems Integration, Oct. 2000 (attached) APPLICANT is strongly encouraged to read this.
- D. Newton's Telecom Dictionary 18<sup>th</sup> edition; definitions of "biometrics" and "Biometric Access Control" and "Biometric Device" (attached)
- E. Patent Numbers 6,779,721 and 5,841,886
- F. Patent Number 6,674,367 is another Sweatte patent based on the same subject matter with even broader claims and is definitely sufficient also for a 102(b).

62. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).



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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

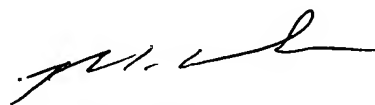
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew L. Brooks whose telephone number is (571) 272-8112. The examiner can normally be reached on Monday - Friday; 8 AM - 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (571) 272-8112. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MLB  
12/2/2005



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